IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL SUO MOTO WRIT PETITION No. 2 OF 2007

Karpurapu Vara Prasadarao)
R/o. Flat No. 12, Mukund)
Gandharva Nagari)
Nashik Road-422 101) Petitioner

Vs.

Union of India through)
the General Manager,)
India Security Press,)
Nashik Road-422 101.) Respondent

Petitioner in person.

Smt. A. S. Gadhavi, APP for the respondent.

CORAM : R.M.S. KHANDEPARKAR
AND
A.A. SAYED, JJ.

DATE : NOVEMBER 23, 2007.

ORAL JUDGMENT [PER R.M.S. KHANDEPARKAR, J.]

. Heard at length the petitioner as well as Smt. A. S. Gadhavi, APP for the respondent Union of India. Perused the petition and the annexures.

2. The present petition came to be registered as Suo Moto Writ Petition, pursuant to the order 20th

February 2007 passed by the then acting Chief Justice and the same reads thus-

> "The grievance stated in Annexure A-2 on the obverse of this page, be treated as Suo Moto Criminal Writ Petition and be placed before a Bench presided over by Smt. Justice Ranjana Desai.

The above order was passed on the basis of Annexure A/2, to the petition.

3. The petitioner appearing in person has argued as under-

(i) There is summary Case No. 114 of 2007 filed against the Nashik Road Court, under S. 110, 112 and 117 of the Bombay Police Act 1947. However, he does not know at what stage the said proceedings are, as he is not attending the said proceeding, since according to the petitioner, Nashik Road Court has no jurisdiction to deal with the said matter. It is the contention of the petitioner that the concerned Court refused to take on record the submissions made by the petitioner, and therefore, the said court has lost the

jurisdiction to deal with the said matter. In the circumstances, it is his request that the proceedings in the said Court be quashed; further explanation be called from the concerned court as well as the District Court Nashik in respect of refusal to take note of his submissions

(ii) It is his further contention that NBW came to be issued against him and his son by Nashik Road Court in RCC No. 128 of 1997, filed under S. 380 read with S. 34 of I.P.C. Police had been to his house to arrest him and his son. However, in spite of necessary cooperation being rendered by the petitioner, they were not arrested by the police in execution of the said warrant. The petitioner want explanation from the said police authority as to why and under what circumstances said warrant has not been executed.

(iii) It is further contention of the petitioner that he was in the government service and his services were terminated, but subseuently he was reinstated, however, again his services were terminated as a result of which he had to approach various courts, tribunal, including Supreme Court and lot of harassment was caused to the petitioner on this ground. The

petitioner requests for compensation which should be in lakhs or crores as the Court may deem fit and appropriate.

4. The learned advocate appearing for Union of India drawing our attention to the order passed by this Court, submitted that there is already order passed to the effect that any proceedings filed by the petitioner should not be registered unless the Court is heard, as the petitioner is in habit of filing vexatious proceedings. She has further submitted that the petitioner was given due hearing and all his contentions were considered, but he failed to establish his case, and therefore, he could not get any relief in relation to his grievance pertaining to his termination of services.

5. As regards the grievance regarding absence of jurisdiction to Nashik Road Court in case No. 114 of 2007, the affidavit in reply is filed by one Ananda D. Hodage, Assistant Inspector of Police, Nasik Road Police Station. The relevant portion thereof reads thus-

"I say that on 3.2.2007 the petitioner

herein committed an offence under section 110, 112, and 117 of the Bombay Police Act in the Court Hall of JMFC, Nasik Road Court. I say that on 3.2.2007 at about 1.00 p.m. the officer on duly on mobile van No.5 Shri Vikas R. Thorat, PSI received a wireless message to attend the Court of JMFC, Nasik Road immediately as one person/petitioner had created problem in the Court Hall. I say that PSI Thorat immediately rushed to the said Court, wherein he was informed by the learned JMFC, Shri Sonawane that the petitioner has used indescent language and also abused the Court. I say that when the said officer reached to the Hon'ble Court, it was found that the petitioner has gathered about 24-25 persons and was shouting loudly by making gestures towards the Hon'ble Court and was disturbing the public peace in the precincts of the Court premises. I say that the concerned officer, therefore, tried to pacify the petitioner and requested him to vacate the premises, when the petitioner refused to obey the

directions of the police officer.I say that the petitioenr continued to use abusive language against the Hon'ble Court and also against the police. I say that the petitioner was therefore, charged under sections 110, 112 and 117 of the Bombay Police Act and police N.C. Report bearing Case No. 5 of 2007 came to be submitted to the Hon'ble Court and the petitioner was produced along with the said report at about 4.30 p.m. on the said date."

6. The contents of the abovesaid quoted paragraph disclose the circumstances in which the proceedings under S. 110, 112 and 117 of the Bombay Police Act are initiated in the concerned Court. From the facts and circumstances disclosed as above, therefore, it is difficult to accept the contention on behalf of the petitioner that the Nashik Road Court has no jurisdiction to deal with the matter. Merely because Nashik Road Court has refused to accept the submissions on behalf of the petitioner, that itself would not divest the said court of its jurisdiction to deal with the matter. If the petitioner is aggrieved by any order passed by the concerned court in the said

proceedings, the petitioner can have an appropriate remedy under the provisions of law, as are applicable to such proceedings. But merely because any submission made on behalf of the petitioner is not accepted or even refused to be taken on record by the concerned court, that itself does not result in cessation of jurisdiction of the court to deal with the matter. The contention regarding absence of jurisdiction to the concerned Court is devoid of substance. It is pertinent to note that it is the case of the petitioner himself that he is not attending the proceeding before the Nashik Road Court on assumption that the said court has no jurisdiction to deal with the matter. No party to any proceeding is entitled to remain absent in any criminal proceeding on such assumption. Even assuming that party wants to make grievance about the absence of jurisdicton to the court to deal with the matter, it is necessary for such party to appear before such court and to raise the point about the absence of jurisdiction before the same court. It is necessary for the concerned party to bring to the notice of the concerned court about the limitations of jurisdiction of such Court. Under no circumstances, a party to a criminal proceeding is entitled to ignore the process issued by any court. Certainly if the Court inherently

lacs jurisdiction to deal with the matter before it, nothing prevents the party from raising that issue before the higher Court. But the same is to be done in proper proceedings and after following the required procedure. In the case in hand absence of jurisdiction is solely on the ground of refusal to take on record the submissions made on behalf of the petitioner. The petitioner himself has averred that he resides within the territorial jurisdiction of the concerned court. The facts disclosed in the affidavit of Mr. Ananda D. Hodage reveal that the alleged incident, pursuant to which the proceedings are initiated, occurred within the territorial jurisdiction of Nasik Road Court. Being so, the contention of absence of jurisdiction to the concerned court cannot be accepted.

7. The second point relates to the non execution of Non Bailable Warrant, issued in RCC No. 128 of 2007. We fail to understand on what ground the petitioner can seek explanation from the police authorities for non execution of warrant against him and his son. It is not the case of the petitioner that NBW was issued at his instance. It is his own case that it was issued against himself and his son. The grievance regarding non execution of such warrant if at

all to be made, then the same should be by the complainant and not by the person against whom such warrant is stated to have been issued. The contention is totally devoid of any substance.

8. Before dealing with the last point regarding compensation, it would be appropriate to refer to one of the earlier judgment delivered by this Court in Writ Petition No. 1066 of 2005 delivered on 24th March 2005 by the Bench comprising of the then Chief Justice and Shri Justice S. A. Bobade, which reads thus -

"P.C. :

. By this petition filed on 20th September, 2004 the petitioner has challenged inter alia the order of the Central Administrative Tribunal dated 28th June, 2002.

2. By the impugned order the Tribunal has rejected the only prayer made for by the petitioner; i.e. to grant him pay and allowances allegedly due from 10th April, 2001 to 24th March, 2002 i.e. for the period

when the petitioner was under suspension. The Central Administrative Tribunal has declined his prayer in view of para 3 of F.R.54-B which provides that an Authority competent to order reinstatement may grant full pay and allowances for the period of suspension where it is of the opinion that the suspension is wholly justified. This is subject to provisions of Sub-Rule (8). The Central Administrative Tribunal after taking into account the fact that the petitioner, as Central Government Servant, was detained in central prison for a period in excess of 48 hours i.e. from 10th April 2001 to 19th April, 2001. He was, therefore, placed under deemed suspension with effect from 10th April 2001. The Tribunal is of opinion that the charges against the petitioner are of serious nature and that the matter is not yet finally decided by the competent court. Therefore, since the proceedings instituted against the petitioner have not yet been finalised, the Tribunal has taken a view that the respondent cannot pass any order under F.R.54-B to treat the period of suspension on duty or

otherwise. The Tribunal was nonetheless given liberty to the petitioner to approach it after the proceedings instituted against him are over in the criminal court as may be advised.

3. There is a delay of about two years in approaching this Court. That apart, we find no error of law apparent on the face of the record of the Tribunal and therefore do not propose to interfere with the order impugned. We also find no infirmity in the order dated 19th March, 2002 impugned by the petitioner at page 18 of this petition. By that order the petitioner's subsistence allowance has been enhanced from 50% to 75%. We, however, find that the petitioner has been vexatious in litigation and we do not propose to entertain this petition on that ground also. This order appears to be in favour of the petitioner.

4. The respondent has, along with the affidavit in reply given the details of number of petitions which the petitioner has

filed. This is not denied by the petitioner.

The details are as follows:-

(A) CASES AT CENTRAL ADMINISTRATIVE TRIBUNAL, MUMBAI

Sr. No.	Case No.	Prayer made	Judgment of court
1)	O.A.No.663/92	For promotion to the post of D.W.E.	O.A. Dismissed
2)	O.A.No.1388/94	For immediate reinstatement and not to harass him.	O.A. Dismissed
	M.P.No.264/95		Disposed of on 27-3-1995 with specific instruction.
	M.P.No. 316/95		Dismissed on 10-4-1995.
	M.P. No.264/95		Dismissed on 27-3-1995.
	M.P. No.729/95		Dismissed on 24-11-1995.
	M.P. No. 57/98		Dismissed on 5-2-1996
	M.P. No.690/96		Dismissed on 13-9-1996.
3)	O.A.No.406/95	To set aside the punishment vide order dated 10-2-1995.	This has been rejected. With warning.
4)	O.A.No. 861/95	Claiming O.T. for 11-4-95 & 12-4-95 which days were	O.A.Dismissed.

		declared holidays.	
5)	O.A.No.1130/95	To issue copies of documents in the interest of justice	O.A.Dismissed.
6)	Review Petition No.120/95 in OA No.1130/95	For getting copies of documents.	O.A.Dismissed.
7)	O.A.No. 224/96	Regarding promotion to the post of DWE (E) & to quash and set aside recruitment rules for the post of DWE.	O.A.Dismissed
8)	M.P.No.726/96 in O.A. No. 224/96.	To restore O.A.No. 224/96	M.P.Dismissed
9)	M.P.No.690/96 in O.A. No. 1388/94.	To pay all allowance with interest, as if there was no charge sheet served on him.	M.P.Dismissed
10)	OA No.1203/96	For overtime for 2 days on 11-4-1995 and 12-4-1995, which declared as holidays.	O.A.Dismissed
11)	OA No. 191/97	To deduct overtime allowance for which he has worked and to introduce card punching system.	O.A.Dismissed
12)	OA No. 336/97 and R.P. No. 48/97.	claiming overtime for 11-4-1995 and 12-4-1995, which were declared as holidays.	O.A.Dismissed
13)	CP No.10/97 in OA No. 861/95	Contempt for not implementing judgment in O.A.No.861/95.	C.P.Dismissed
14)	CP No. 80/97 in	For not implemen-	C.P.Dismissed

	O.A.No.325/97	ing judgment in O.A.No. 325/97.	
15)	OA No. 993/97	Regarding brutal harassment from managemnt	O.A.Dismissed and the Appli -cant was ordered to pay the cost Rs.100/- to the respondents.
16)	OA No.1136/97	Regarding illegal recruitment in violation of Article 309.	O.A.Dismissed
17)	OA No.753/99	For asking him to work normal hours.	O.A.Dismissed
18)	OA No.902/99	To dispose of his appeal dated 24-4 -99, for full pay & allowances for suspension period etc.	O.A.Dismissed
19)	OA No.325/97 & MP No.245/97 MP No.292/97 MP No. 42/97 MP No. 88/98	To quash and set aside suspension dated 14-8-96 and to pay full payment including overtime. To keep matter on top of board. M.P. To be taken on top prio- rity as the applicant does not want to attend the inquiry on 17-4-1997	M.P.s & C.P.s Dismissed. Directed the Applicant to cooperate with Inquiry Proceedings.
	RP No. 62/97 in OA.No.325/97	To review judgment dated 24/6/1997. Non compliance of Tribunal's orders to finalise inquiry proceeding before 31-10-1997.	R.P.Dismissed
	CP No.80/97 in OA No.325/97		C.P.Dismissed

20) OA No.650/97	a)To pay suspension allowance under FR 53 without delay. b) Not to harass the applicant in receiving his communication. c) To complete the Inquiry in r/o S.B.Rai by 30-11-97 in the interest of department	O.A.Rejected
21) OA No.1025/97 and MP. No. 779/97 MP No.379/98 and MP No.431/98	To quash his illegal suspension, for early hearing. Applicant should be paid June payment including overtime for pre-suspension period.	OA withdrawn by the applicant.
22) OA No.73/99	To consider applicant's name in 2nd /3rd batch for foreign training.	OA Dismissed
23) OA No. 102/99	Quash suspension order dt.14-8-96 and pay wages including O.T. with 18% interest for the suspension period.	OA rejected.
24) OA No.579/99 MP No.656/99	Copy of OA directly forwarded to Ministry.	OA withdrawn by the applicant.
25) OA No.657/99	To sanction leave saught by the applicant.	OA Disposed of.
26) OA No.753/99	Regarding his normal working.	OA Dismissed
27) OA No.902/99 And	Full pay and allowances for	OA Withdrawn by the

MP No.899/99	17 months of his suspension, etc.		Applicant
28) OA No.10/2001	For promotion		OA Dismissed C.A.T. ini--tiated contempt proceedings against him for making allegations against CAT members.
29) OA No.305/2001	For revocation of suspension.		O.A.Dismissed
30) OA No.380/2001	For grant of increment		O.A. is in sine-die.
31) OA No.430/2001 and RP No. 64/2001	For promotion to the post of D.W.E and W.E.	are dismissed	O.A. & R.P.
32) OA No.561/2001	Refund of T.A./D.A.	O.A.dismissed	
33) OA No.830/2001 & M.P.No.46/2002 & C.P.No.46/2002	To enhance subsistence allowance.		O.A.,M.P. and C.P.dismissed
34) OA No.272/2002	To increase subsistence allowance.		O.A.Withdrawn
35) OA No.430/2002	For pay and allowance from 10-4-2001 to 24-3-2002.		O.A.Dismissed
36) OA No.430/2001	Regarding promo-tion to the post of D.W.E.& W.E.		Dismissed.
37) OA No.561/2001	Regarding refund of TA/DA amount of Rs.2,700/-		Dismissed with costs.
38) OA No.830/2001	Increase of subsistence allowance to 75%		Dismissed

39) OA No.272/2002	Increase of subsistence allowance w.e.f. 10-7-2001 to 28-2-2002.		Withdrawn
40) OA No.430/2002	For pay & allowance from 10-4-2001 to 24-3-2002.		Dismissed.
41) OA No.464/2002	Prosecution of G.M.,Dy.G.M.,F.A. & C.A.O.,C.E.		Dismissed.
42) OA No.675/2002	Quash the order passed by respon-dent & grant the pay & allowance.		Dismissed with cost Rs. 5,000/-
43) OA No.889/2003	Challenging order of imposing penalty of compulsory retirement.		Dismissed
44) OA No.528/2004	To dispose off his Appeal without personal hearing by the Appellate Authority.		Withdrawn
45) OA No.543/2004	To quash and set aside charge sheet dt.1-8-2002 and Inquiry report.		Withdrawn

B) CASES FILED IN THE HIGH COURT, MUMBAI.

1) W.P.No.3276/1997	For challenging the order of the C.A.T. in O.A. No.336/1997		W.P. dismissed. at the admission stage.
2) W.P.No.4728/1997	a) To quash & set aside suspension order & charge-		Petition dismissed

		sheet dated 14-8-96 and 5-9-96 respectively. b) Respondent be directed not to harass the petitioner	
3)	W.P.No.5502/1997	a) To pay full pay and allowance if he would not have suspended a Govt. service including O.T. b) To issue written apology to the petitioner	Petition dismissed
4)	W.P.No.3210/1999	To include his name in foreign training batch likely to leave on 29-5-1999	Petition dismissed.
5)	Criminal W.P.No.2268/1999	Challenging appoin-ment of 3 candidates to the post of Dy. Works Engineer.	Petition Dismissed
6)	Criminal W.P.No.934/2000	Permission to prosecute Shri.S.B.Rai	Petition Dismissed
7)	W.P.No.2034/2000	Challenging his suspension	Petition Dismissed.
8)	W.P.No.6309/2000	Challenging the DRC proceedings held for recruitment for the post of D.W.E.	Petition Dismissed
9)	W.P.No.4814/2001	To quash the order of C.A.T. in O.A. No.1388/94 and 406/95	Petition Dismissed
10)	W.P.No.4814/2001	To uash the order passed by C.A.T.in	Petition dismissed

	O.A. No.1388/94 and 406/95.	
11) W.P.No.1388/2002 To allow criminal	Writ Petition	Dismissed.
12) W.P.(PIL) No.2/2005	Challenging the suspension and compulsory retirement	Writ Petition dismissed.

C) CASES FILED IN THE SUPREME COURT OF INDIA

1) S.L.P. No.2372/2000	Challenging the judgement & order of High Court, Mumbai in Cri.W.P.No.(PIL) 2268/1999	S.L.P. dismissed
2) S.L.P. No.663/2002	Challenging the judgement & order of Hon'ble High Court, Mumbai in Cri.W.P.No.709/2001	S.L.P. dismissed

5. Moreover, the learned Counsel for the respondents brought to our notice the attempt by the petitioner to initiate contempt proceedings against two Honourable Judges of the Supreme Court of India. A letter of the Attorney General of India deciding his consent to do so under Section 15 of the Contempt of Courts Act is annexed by the petitioner himself at page 15 of the paper book. Learned Counsel for the respondents further submitted that the petitioner is prone to making complaints against

all those who deal with his matter. Learned counsel for the respondents submitted that he has himself been the victim of such a complaint.

6. Having regard to the above, we are of view that it would be appropriate to dismiss this petition with costs quantified at Rs.10,000/-. The Registry is directed not to list any matter of the petitioner before this Court unless the respondent certifies that the petitioner has paid costs imposed by us. This petition is accordingly, dismissed with costs quantified as above."

9. The above judgment apparently discloses that the petitioner could not make out any case regarding alleged illegal termination or about grievance pertaining to termination of his service . That apart, the contents of para 5 and 6 of the said judgment also speak volume about the conduct of the petitioner.

10. As regards third point which pertains to the claim of compensation, once it is apparent that the petitioner has not been able to make out any case

regarding grievance pertaining to alleged illegality in termination of his service, the question of grant of compensation in that regard, on the alleged harassment, does not arise at all. Besides, for the claim of compensation, various disputed questions of facts are to be gone into and no such exercise is permissible in writ jurisdiction.

11. For the reasons stated above, we do not find that petitioner has made out any case for grant of any relief in the petition. The petition therefore, fails and is hereby dismissed. Rule is discharged, with costs.

12. At this stage the petitioner states that he may be granted permission to prefer appeal to the Supreme Court. We do not find any substantial point having been raised for consideration in the matter, and therefore, there is no case for grant of leave to prefer appeal. Accordingly, the request for leave appeal is rejected.

Sd/-
[R.M.S. KHANDEPARKAR, J.]

Sd/-
[A. A. SAYED,J.]